

IN SUPPORT OF HOUSE BILL 4443

TESTIMONY BEFORE THE HOUSE LABOR COMMITTEE

**NICK CIARAMITARO, DIRECTOR OF LEGISLATION AND PUBLIC POLICY
MICHIGAN AFSCME COUNCIL 25**

November 26, 2007

Mr. Chairman and Members of the Committee:

Michigan AFSCME Council 25 strongly supports House Bill 4443 introduced by the chair of this committee, Representative Fred Miller. This bill would end the onerous practice of some beneficiaries of state contracts, grant and other state payments paid by the taxpayers of this state – taxpayers that include union members throughout the State of Michigan – from using public monies against workers who exercise their right under federal or state law to organize.

As a general principal, Michigan AFSCME Council 25 opposes the use of tax dollars to deprive workers of their statutory rights. But in today's continuing days of tight fiscal restraints, days in which every available dollar of public money is critical to the provision of the most essential of state services, it must be of great concern to all when state tax dollars are diverted from their intended service delivery purposes to advance the economic or philosophical agenda of a business.

Some may contend that this legislation would restrict employers from exercising rights reserved to them under federal and state labor law. That is simply not the case. This legislation does not prohibit anti-union behavior. It simply requires that no public funds be used in those efforts. It provides a workable enforcement mechanism by requiring any employer receiving direct state support to either refrain from these activities or to report the manner in which they paid for them – at *their* discretion.

Some may argue that such abuse does not occur. If that were the case, any objection to this legislation would be moot. But I expect that you will hear opposition to the bill as the years of contentious legal battles between our union and private employers who provide public services proves otherwise. The number of unfair labor practice charges, NLRB actions over bargaining units and instances of litigation is far too large to count. I have been advised by other labor organizations (and you will hear testimony on this point) that our experience is not unique. The use of taxpayer money to interfere with union organizing and collective bargaining is a tremendous waste of scarce public resources. It runs counter to the public interest and should be stopped. We urge this committee to take quick action on House Bill 4443.



INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA - UAW

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**Statement of
NADINE NOSAL
INTERNATIONAL UNION, UAW
MICHIGAN COMMUNITY ACTION PROGRAM
Before the
Michigan House of Representatives
Labor Committee**

November 27, 2007

Good morning. Thank you Chairman Miller and committee members for allowing me to testify on this important piece of legislation before you today. My name is Nadine Nosal and I am the Michigan Legislative Coordinator for the International Union, UAW assigned to our UAW Community Action Program. Across Michigan the UAW represents approximately 400,000 active and retired members and their families in both the private and public sectors.

The UAW urges your support and affirmative vote on the bill before you today. House Bill No. 4443 prohibits the use of state funds to "interfere with or discourage unionization."

The state and its elected officials have a responsibility to ensure that taxpayer dollars are used in a fiscally responsible manner and not squandered. By enacting this bill into law you are prohibiting employers from using taxpayer dollars awarded to them to influence workers regarding unionization. The government should not be using tax dollars to subsidize an employer's costs related to influencing their employees' decision about whether to form or join a union. That decision should be left to employees, without state-funded employer interference.

In this time of fiscal constraints and state budget cutbacks it is now more essential than ever to ensure that state funds are not misused, thus maximizing scarce funding for delivery of critical programs and services to Michigan citizens. For years Michigan has been experiencing declining revenues which have resulted in budget deficits, reduced programs and services, increased fees and, most recently, increased taxes. It is particularly inexcusable in times such as

these that state funds awarded to employers could be used to influence a worker's decision regarding unions. House Bill No. 4443 helps ensure that the funds appropriated by the Legislature are used solely for the purpose for which they were intended.

There are those who would say that this bill violates an employer's right of free speech. If a Michigan employer is prohibited from using state funds to oppose unionization, it does not stop that same employer from presenting its views. The bill does not require employer neutrality in a union action; employers will simply be prohibited from using public money with regards to unionization. The bill in no way restricts employers from using their own funds to engage in such activities. House Bill No. 4443 simply requires employers will have to use their own moneys for these purposes. It is the state that would, and should, remain neutral in these actions by prohibiting the use of taxpayer funds for influencing employees regarding unionization.

Labor unions are part of the American tradition. They give a voice to working families and have helped create the middle class in this country by negotiating wages and benefits that have raised the living standards for all Americans. This bill does not create an advantage for either management or labor; it creates fairness and a "level playing field" for all involved parties.

On behalf of Michigan's UAW members, retirees and their families I ask your support of House Bill No. 4443.

Thank you.

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cc: Richard Long



**House Labor Committee
November 27, 2007
Testimony of Chris Fisher, Executive Director
Associated Builders and Contractors of Michigan**

Good Morning Chairman Miller and members of the Committee. Thank you for the opportunity to be here today. My Name is Chris Fisher and I am the Executive Director of Associated Builders and Contractors of Michigan. I appear before this committee in opposition to House Bill 4443.

The right of the American worker to make an informed decision to freely and voluntarily organize with their co-workers to join or not to join a labor union is a fundamental right that should never be infringed upon.

Likewise, the right of the American employer to exercise his or her right to free speech is ingrained in the fabric of our society and is also a fundamental right that should never be infringed upon.

Unfortunately House Bill 4443 infringes upon these rights. Moreover, this bill creates additional government red tape, creates costly and burdensome compliance requirements, interferes in the day to day legal operations of Michigan businesses, and may not even be constitutional.

Of crucial importance for members of this committee to consider, is that this bill constitutes an inappropriate and dangerous standard of establishing an improper bias for the state of Michigan instead of maintaining neutrality when it comes to union organizing. This is because the bill only prohibits employers from opposing unionizing, while at the same time not prohibiting support of unionization.

This point is especially important when one considers that the U.S. Supreme Court just last week agreed to review a California law on which this bill is modeled. California's version of this bill, as controversial as it is--as evidenced by the Supreme Court's decision to review the case--is actually far more likely to withstand judicial scrutiny than HB 4443 because California's version doesn't take the improper step of actually expressing a bias. The preamble to the California law, in part, states:

"It is the intent of the Legislature in enacting this act to prohibit an employer from using state funds and facilities for the purpose of influencing employees to support or oppose unionization..."

House Bill 4443 however actually states that it is a bill not to maintain a neutral position by neither supporting nor opposing but instead this bill has the expressed biased purpose of being a "bill to prohibit expenditures of state funds on activities that interfere with or discourage unionization."

Clearly HB 4443 is anything but impartial because it only restricts expenditures that discourage unionization while not restricting expenditures that encourage unionization. This alone distinctly demonstrates that the legislation is significantly flawed.

Aside from the pending legal proceedings that could render this bill null and void, there are numerous concerns that still result in this bill being poor public policy that our statewide membership cannot support.

If HB 4443 were ever enacted, an investigation of a company can be conducted for any reason at any time without just cause. According to the bill, the State of Michigan, "on its own initiative" has the over-reaching authority to audit a business whether or not there has been a complaint. The absence of a just cause provision is viewed by our membership as unfair and is of significant concern.

Of further concern is that this bill is costly and creates burdensome report filings that are difficult for companies to comply with. Coupled with the difficulty many businesses will soon be facing with the new business tax and services tax or surcharge, this is ill-timed and would be another hindrance to Michigan's already bleak business reputation.

Moreover, House Bill 4443 would require businesses to provide an accounting of information that is of absolutely no concern to the State of Michigan. Not only would it require firms to provide an accounting of expenditures of business income that results from state contracts (which is being touted as the primary purpose of the bill), but it also requires an unreasonable accounting of the legal expenditure of funds derived from private contracts whenever a company incurs costs of an internal unionizing campaign. Frankly we believe this to be under the jurisdiction of the National Labor Relations Board, not the Michigan Department of Labor and Economic Growth.

Indeed, under the National Labor Relations Act an employer has the right to express his or her support or opposition to union organizing efforts, to hire counsel and freely express opinions. This bill would unfairly hinder that ability and constitutes an infringement of an employer's first amendment right to free speech.

It is for these reasons that our membership is in strong opposition to HB 4443. This bill goes well beyond the admirable goal of ensuring a proper use of tax dollars and instead it overreaches into costly, unnecessary, and unjust restrictions that hamper Michigan's already struggling business climate, muzzles the free speech rights of employers, and is unlikely to even withstand judicial scrutiny. We therefore urge you to not report this over-reaching bill out of committee.

I would like to thank you Mr. Chairman and members of the Committee for the privilege to be here today. I would be happy to take any questions you or your fellow committee members may have.